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**From:** "Dragoo, Denise" <ddragoo@swlaw.com>  
**To:** "Mary Ann Wright" <MARYANNWRIGHT@utah.gov>, "Jerriann Ernsten" <JERRIANNERNSTSEN@utah.gov>  
**Date:** 2/2/2007 2:51:17 PM  
**Subject:** Lila Canyon Mine Extension: MOA and PA as revised are attached in redline and clean

<<UEI: Programmatic Agreement from DOGM.DOC>> Ma <<Redline.rtf>> ry  
Ann and Jerriann, attached are UtahAmerican Energy, Inc's comments on the Programmatic Agreement and the Memorandum of Agreement. It appears that our comments and your submission to the SHPO have crossed in the e-mail traffic. UEI is not a signatory to the Programmatic Agreement however, we are providing our comments for your consideration. UEI will be a signatory to the Memorandum of Agreement and we request that our changes be incorporated into that agreement. Thanks for your assistance in this matter. Denise

Denise A. Dragoo  
Snell & Wilmer L.L.P.

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Note: This communication is intended only for the designated recipients, and may contain confidential or privileged information. If you are not a designated recipient, please disregard this communication, and contact the sender immediately. Thank you.

**CC:** <Blaine\_Miller@blm.gov>, <James\_Kohler@blm.gov>, <Steve\_Rigby@blm.gov>, <fkirby@osmre.gov>, <johnharja@utah.gov>, <stevealder@utah.gov>, "Wayne Hedberg" <WAYNEHEDBERG@utah.gov>, <wmartin@utah.gov>, <jmarshall@utahamerican.com>, "McKown, Mike" <mmckown@coalsource.com>, <jevicky@dinslaw.com>, "Jody Patterson" <jpatterson@montarch.com>, "Pam Grubaugh-Littig" <pamgrubaughlittig@utah.gov>, <mseddon@utah.gov>, "Sheila Morrison" <SHEILAMORRISON@utah.gov>, <lhunsaker@utah.gov>

**DRAFT AS OF FEBRUARY 2, 2007**  
**MEMORANDUM OF AGREEMENT FOR**  
**RECOVERY OF SIGNIFICANT INFORMATION**

FOR ARCHEOLOGICAL SITE: 42EM2517, which is located near but not within  
ROW UTU-77122

UNDERTAKING: Bureau of Land Management (BLM), Grant of Right of Way (ROW),  
Lila Canyon Extension Of The Horse Canyon Mine, Serial No. UTU-77122

STATE: Utah

AGENCIES: Bureau of Land Management, Price Field Office (BLM); Office of Surface  
Mining; Utah State Division of Oil Gas and Mining (UDOGM); Utah State Historic  
Preservation Office

RIGHT OF WAY GRANTEE: UtahAmerican Energy, Inc. (UEI)

Whereas, in accordance with 36 CFR Part 800, the BLM acknowledges and  
accepts the advice and conditions outlined in Advisory Council on Historic Preservation's  
(ACHP) "Recommended Approach for Consultation on the Recovery of Significant  
Information from Archeological Sites," published in the Federal Register on May 18,  
1999; and

Whereas, the BLM has issued ROW UTU-77122 granting rights of way on public  
lands related to UEI's surface facilities associated with an underground coal mine, Emery  
County's road, a telephone line and a power line to be constructed by PacifiCorp; and

Whereas, in accordance with BLM's ROW conditions and DOGM's requirements  
at R645-301-411.144, UEI is required to conduct mitigation measures as described in the  
appended Archeological Data Recovery Plan; and

Whereas, the signatories agree that recovery of significant information from the  
archeological site listed above will be done in accordance with the published guidance;  
and

Whereas, the signatories agree that it is in the public interest to expend funds to  
implement this project through the recovery of significant information from archeological  
sites to mitigate the adverse effects of the project to 42EM2517; and

Whereas, the signatories agree that Indian Tribes that may attach religious or  
cultural importance to the affected property have been consulted and have raised no  
objection to the work proposed; and

Whereas, to the best of signatories' knowledge and belief, no human remains,  
associated or unassociated funerary objects or sacred objects, or objects of cultural  
patrimony as defined in the Native American Graves Protection and Repatriation Act (25  
U.S.C. 3001), are expected to be encountered in the archeological work;

Now, therefore, the BLM shall ensure that the following terms and conditions, including the appended Archeological Data Recovery Plan, will be implemented in a timely manner, as designated in the BLM Archaeology Permit and Notice to Proceed, and with adequate resources to be done in compliance with the National Historic Preservation Act of 1966 (16 U.S.C. 470).

**DRAFT AS OF JANUARY 31, 2007****OTHER TERMS AND CONDITIONS FOR 42EM2517:**

- The BLM will implement the mitigation plan for 42EM2517 as directed in this Agreement, prior to construction of the facilities site.
- The BLM will ensure that the following interested parties have been consulted: Emery County, Southern Utah Wilderness Alliance, and ACHP.
- Modification, amendment, or termination of this Agreement as necessary shall be accomplished by the signatories in the same manner as the original Agreement.
- Disputes regarding the completion of the terms of this Agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of ACHP to assist in resolving the dispute.
- This Agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Bureau of Land Management:

date:

Office of Surface Mining:

date:

Utah State Division of Oil Gas and Mining:

date:

Utah State Historic Preservation Officer:

date:

Utah American Energy Corp.:

date:

[Archeological Data Recovery Plan Attached]

**DRAFT AS OF ~~JANUARY 31,~~FEBRUARY 2, 2007**

**MEMORANDUM OF AGREEMENT FOR  
RECOVERY OF SIGNIFICANT INFORMATION**

FOR ARCHEOLOGICAL SITE: 42EM2517-**2517, which is located near but not within ROW UTU-77122**

UNDERTAKING: **Bureau of Land Management (BLM), Grant of Right of Way (ROW),** Lila Canyon Extension Of The Horse Canyon Mine, **Serial No. UTU-77122**

STATE: Utah

AGENCIES: Bureau of Land Management, Price Field Office (BLM); Office of Surface Mining; Utah State Division of Oil Gas and Mining (UDOGM); Utah State Historic Preservation Office

RIGHT OF WAY GRANTEE: ~~Utah American Energy Corporation (Serial Number: UTU-77122-)~~ **Inc. (UEI)**

Whereas, in accordance with 36 CFR Part 800, the BLM acknowledges and accepts the advice and conditions outlined in Advisory Council on Historic Preservation's (ACHP) "Recommended Approach for Consultation on the Recovery of Significant Information from Archeological Sites," published in the Federal Register on May 18, 1999; and

Whereas, the BLM has issued ~~a right of way to Utah American Energy Corporation that grants the company access to construct facilities and conduct coal mining operations and reclamation~~ **ROW UTU-77122 granting rights of way on public lands related to UEI's surface facilities associated with an underground coal mine, Emery County's road, a telephone line and a power line to be constructed by PacifiCorp;** and

Whereas, in accordance with **BLM's ROW conditions and DOGM's requirements at R645-301-411.144,** ~~the UDOGM requires Utah American Energy~~ **UEI is required** to conduct mitigation measures as described in the appended Archeological Data Recovery Plan; and

Whereas, the ~~signees~~ **signatories** agree that recovery of significant information from the archeological site listed above will be done in accordance with the published guidance; and

Whereas, the ~~signees~~ **signatories** agree that it is in the public interest to expend funds to implement this project through the recovery of significant information from archeological sites to mitigate the adverse effects of the project to 42EM2517; and

Whereas, the ~~signees~~ **signatories** agree that Indian Tribes ~~or Native Hawaiian organizations~~ that may attach religious or cultural importance to the affected property have been consulted and have raised no objection to the work proposed; and

Whereas, to the best of ~~signees~~signatories' knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the archeological work;

Now, therefore, the BLM shall ensure that the following terms and conditions, including the appended Archeological Data Recovery Plan, will be implemented in a timely manner, as designated in the BLM Archaeology Permit and Notice to Proceed, and with adequate resources to be done in compliance with the National Historic Preservation Act of 1966 (16 U.S.C. 470).

**DRAFT AS OF JANUARY 31, 2007**

**OTHER TERMS AND CONDITIONS FOR 42EM2517:**

- The BLM will implement the mitigation plan for 42EM2517 as directed in this Agreement, prior to construction of the facilities site.
- The BLM will ensure that the following interested parties have been consulted: Emery ~~and Carbon Counties~~ County, Southern Utah Wilderness Alliance, and ACHP.
- Modification, amendment, or termination of this Agreement as necessary shall be accomplished by the signatories in the same manner as the original Agreement.
- Disputes regarding the completion of the terms of this Agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of ACHP to assist in resolving the dispute.
- This Agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Bureau of Land Management:

date:

Office of Surface Mining:

date:

Utah State Division of Oil Gas and Mining:

date:

Utah State Historic Preservation Officer:

date:

Utah American Energy Corp.:

date:

[Archeological Data Recovery Plan Attached]



Document comparison done by DeltaView on Friday, February 02, 2007 1:57:20 PM

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Document 2	pcdocs://slc/428429/3
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Moved to	0
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Format changed	0
Total changes	27

**DRAFT AS OF FEBRUARY 2, 2007****February 2, 2007**

**PROGRAMMATIC AGREEMENT  
AMONG OFFICE OF SURFACE MINING,  
DIVISION OF OIL GAS AND MINING,  
BUREAU OF LAND MANAGEMENT,  
AND UTAH STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE  
LILA CANYON EXTENSION OF THE HORSE CANYON MINE  
(C/007/0013)**

**UNDERTAKING:** Proposed Mining and Reclamation Plan (“MRP”), Lila Canyon Extension of the Horse Canyon Mine, C/007/0013.

**STATE:** Utah

**AGENCY:** Utah Division of Oil Gas and Mining (“OGM”)

**RECITALS:**

1. **WHEREAS**, UEI has applied to OGM for approval of a mining and reclamation plan (“MRP”) for the Lila Canyon Extension of the Horse Canyon Mine to mine coal by underground mining methods. A map of the proposed MRP permit area is attached at Exhibit A<sup>1</sup>; and

2. **WHEREAS**, pursuant to the federal Mineral Leasing Act, the United States Department of the Interior (“DOI”), Bureau of Land Management (“BLM”), has issued the federal coal leases to UEI within the MRP permit area and has approved a resource recovery and protection plan for these coal reserves. In addition, in November, 2001, the Secretary of DOI issued an approved federal mining plan for the Lila Canyon Extension which remains in effect.<sup>2</sup> Further, in October, 2000, the BLM, as surface land manager, authorized rights of ways (“ROWs”) on public lands for surface facilities associated with the underground coal mine, Emery County’s road, a telephone line and a power line to be constructed by PacifiCorp. To

<sup>1</sup> Please note that the boundaries of the permit area will reduce significantly should OGM amend its definition of the terms “permit area” and “coal mining and reclamation operations” in accordance with the pending rulemaking request filed by the Utah Mining Association on November 27, 2006.

<sup>2</sup> UEI reserves the right to object to the need for tribal consultation under § 106 NHPA because the federal mining plan approval issued in November, 2001, is still in effect, has not been rescinded by the Secretary and there is no pending federal undertaking.

mitigate possible impacts on site 42EM2517, BLM has drafted a Memorandum of Agreement (“MOA”) with UEI, OGM and the Utah State Historic Preservation Office (“SHPO”) regarding recovery of the site, Attachment 1.

3. **WHEREAS**, pursuant to Utah’s Cooperative Agreement with OSM codified at 30 C.F.R. Part 944, OGM has assumed primacy for the regulation of coal mining operations containing Federal lands in Utah and issues mining permits for such lands; and

4. **WHEREAS**, this Agreement is intended to encompass undertakings including: (1) coal mine permitting (MRP) approval for the Area of Potential Effect (APE; Exhibit B); and (2) in the event of rescission of the 2001 federal mining plan approval, any new Secretarial mining plan approval. BLM’s MOA is independent from this Agreement and this Agreement does not affect BLM’s final decision to grant UEI ROW UTU-77122; and

5. **WHEREAS**, the OSM, OGM, and BLM, in consultation with SHPO, have defined the APE as areas within the proposed permit area subject to direct surface disturbance (42 acres; APE I) and areas subject to potential subsidence (approximately 2835 acres; APE II)<sup>3</sup>; and

6. **WHEREAS**, reasonable and good faith identification efforts per 36 C.F.R. § 800.4(b) have been conducted within the APE I (Class III survey, confirming no sites as eligible for listing on the National Register of Historic Places (“NRHP”)), and APE II (Class II survey recommending two sites as eligible for listing on the NRHP, 42EM2255 and 42EM2256, both of which sites contain low density lithic scatters) and within the ROW (Class III survey recommending 42EM2217 (Fremont Rock Shelter) as eligible for listing on the NRHP although this site is not within the ROW, the MRP permit area, APE I or APE II)<sup>4</sup> and the results of those identification efforts have been reviewed by the OSM, OGM, BLM and SHPO to determine the eligibility of any such identified historic properties and the potential effects of the undertakings per 36 C.F.R. § 800.4(c). The APE I and APE II are further identified at Exhibit B; and

6. **WHEREAS**, the BLM, in consultation with SHPO, has determined that the ROW would have impacts on identified historic property site 42EM2217, which would be reduced to insignificance upon implementation of a data recovery plan, and OSM, OGM, in consultation

<sup>3</sup> UEI reserves the right to challenge the jurisdiction of OGM and OSM over historic properties affected by subsidence. Notably, subsidence due to underground coal mining is not included in the definition of “surface coal mining operations” under Section 701(28) of the Surface Mining Control and Reclamation Agreement, 30 U.S.C. § 1291(28) and 30 C.F.R. § 700.5 of OSM’s regulations. See Secretary’s interpretative rule, 30 C.F.R. § 761.200, which was upheld in *Citizens Coal Council v. Norton*, 330 F.3d 478 (D.C. Cir. 2003), *cert den.* 124 S. Ct. 1415 (U.S. 2004). Notably, OSM stated in its preamble to the interpretive rulemaking at 64 Fed. Reg. 70838 at 70847: “In our most recent rulemaking defining “permit area,” we indicated that we do not consider subsidence to be a “surface coal mining and reclamation operation.” Our rules do not require including the “area overlying underground workings” (where subsidence may occur) within the definition of “permit area.” In the preamble, we explained that the permit area should only include the “areas upon which surface coal mining and reclamation operations” are conducted, not areas where potential subsidence may occur. 48 FR 14820 (Apr. 5, 1983). Thus, no permit is required for these areas where there are no surface activities.” Also, see footnote 2 above.

<sup>4</sup> UEI reserves the right to challenge the jurisdiction of the OGM and OSM over site 42EM2217 (Fremont Rock Shelter), which is not within the permit area of the MRP.

with SHPO, have determined that the MRP will have an adverse effect on identified historic property site 42EM2517; and<sup>5</sup>

7. **WHEREAS**, the OSM, OGM, and BLM, in consultation with SHPO, have determined that there is a possibility that additional historic properties may be discovered during mining and reclamation of the Lila Canyon Extension; and

8. **WHEREAS**, the appropriate tribes (Attachment 2) have been consulted regarding their concerns about potential effects of the undertakings to cultural and/or religious sites (Traditional Cultural Properties and sacred/respected places); and

9. **WHEREAS**, Emery County, UEI and Southern Utah Wilderness Association (SUWA), as consulting parties, have been consulted regarding potential effects to historic properties; and

**NOW, THEREFORE**, Pursuant to 36 C.F.R. 800.14, the OSM, OGM, BLM, UEI, and SHPO agree to implement this Agreement to address the potential effects that mining and reclamation of the Lila Canyon Extension of the Horse Canyon Mine and corresponding mining operations may have on historic properties identified within the APE.<sup>6</sup>

#### STIPULATIONS

1. **Lead Agency.** The lead agency ("LA") role for the purposes of this Agreement is determined as follows: With respect to the ROWs site 42EM2517 and implementation of the MOA, BLM is the LA.<sup>7</sup> Prior to approval of the MRP, BLM will be the LA. Upon approval of the MRP, the LA will be OGM. OGM will continue to consult and coordinate with OSM, BLM and SHPO on archaeological matters covered under this Agreement.
2. **Treatment of Site 42EM2517.** The BLM has drafted an MOA for mitigation of 42EM2517 (Attachment 1). Pursuant to the terms of the MOA, UtahAmerican Energy Inc., ("UEI") will assure that a data recovery plan for 42EM2517 is prepared, approved, and implemented in accordance with the BLM MOA. The tribes and consulting parties have an opportunity to review and comment on the draft MOA. Consultation with tribes and consulting parties will occur during this process. BLM will take into account comments and concerns received from the tribes and consulting parties. A copy of the fully executed MOA will replace Attachment 1. The parties acknowledge that the MOA is independent from this Agreement and that this Agreement provides no independent basis for enforcing

<sup>5</sup> UEI reserves the right to challenge OSM's and OGM's jurisdiction to make this "adverse effect" finding regarding site 42EM2217, which is outside the MRP permit area and which is contrary to BLM's decision granting ROW UTU-77122 as upheld by the Interior Board of Land Appeals, *Southern Utah Wilderness Alliance*, 163 IBLA 142 at 157 (Sept. 22, 2004) (upholding BLM's finding that any impact to the site would be reduced to insignificance upon implementation of a "data recovery plan" approved by BLM.)

<sup>6</sup> See footnote 5.

<sup>7</sup> See footnote 2.

the MOA.

3. **Monitoring Surface Evidence of Significant Subsidence.** In conjunction with hydrologic monitoring activities currently required by the MRP, UEI will conduct quarterly monitoring and an annual fly-over to monitor significant surface fractures or cracking (herein "significant subsidence") caused by significant subsidence to the APE, consistent with the terms of the subsidence control plan as specified in the MRP, beginning when subsidence is likely to occur (during full extraction) and continuing for a minimum of five years after mining ceases or until significant subsidence stabilizes, whichever comes later. Nothing in this Agreement will expand the subsidence control plan currently set forth in the MRP, meeting the requirements of R645-301-525.400 and .500. As specified in the MRP, UEI will provide an accurate map showing the subsidence isopachs for significant subsidence. UEI will initiate and coordinate with OGM to identify any evidence of significant surface subsidence within the areas of mapped subsidence. If any significant subsidence is identified, UEI will, in coordination with OGM, insure that a qualified archaeologist will examine the location of significant subsidence relative to previous archaeological inventories and known archaeological sites within fourteen days of the identification of the significant subsidence. Depending on the location of significant subsidence in relation to previous historic property inventories and known sites, the accessibility of the area and the current safety of ground conditions, the following stipulations will apply to each area of significant subsidence event.:
  - a. **Previously Inventoried and No Sites.** If significant subsidence occurs within an area that has undergone previous archaeological inventory, and no historic property sites are present within the area of significant subsidence, or no historic property sites eligible to the National Register of Historic Places are present in the area of subsidence, no further work will need to be done.
  - b. **Previously Inventoried and Known Sites.** If significant subsidence occurs within an area that has undergone previous archaeological inventory in which identified historic property sites 42EM2255, 42EM2256 and 42EM2217 are located, UEI will have a qualified archaeologist examine the affects of significant subsidence upon the sites within fourteen (14) days of making this determination. UEI's archaeologist will provide a report for review by OGM, OSM and/or BLM, depending upon the site affected, in a timely manner that makes recommendations regarding whether or not the affects of significant subsidence on the identified sites are adverse. OSM will coordinate with OSM and BLM, as appropriate, to make a final determination of the affects of significant subsidence. OSM will then consult with the SHPO regarding the effects determination. If the effect is determined to be

adverse, procedures following 36 C.F.R. § 800.6 and the stipulation below regarding evaluation and archaeological treatment will be followed.

- c. **Not Previously Sampled.** DOGM has approved the Class II and Class III survey methods used for the APE; however, if significant subsidence occurs outside the sampling area of the Class II survey, but within the permit area, UEI will have a qualified archaeologist conduct a field examination of the significant subsidence area within fourteen (14) days of making this determination.
  - i. **No Sites.** If identified sites 42EM2255 or 42EM2256 are not present within the area of significant subsidence, UEI's archaeologist will make a recommendation of No Historic Properties Affected to OGM in a timely manner. OGM will coordinate with OSM and BLM, as appropriate, to make a final determination of the effects of subsidence. OGM will then consult with the SHPO regarding the effects determination per 36 C.F.R. § 800.4(c).
  - ii. **Inventoried Sites.** If sites 42EM2255 or 42EM2256 are present within the area of significant subsidence, UEI's archaeologist will provide a report and make recommendations of eligibility and effect to OGM (per 36 C.F.R. § 800.4(c)(2) and 36 C.F.R. § 800.5) regarding the site(s) and significant subsidence effects on the site(s) in a timely manner. OGM will coordinate with OSM and BLM, as appropriate, to make a final determination of eligibility of the site(s) and the effects of significant subsidence on the site(s). OGM will then consult with the SHPO regarding the effects determination. If the effect to any site eligible to the National Register of Historic Places is determined to be adverse, procedures following 36 C.F.R. § 800.6 and the stipulations below regarding evaluation and archaeological treatment will be followed.
- 4. **Discoveries Pursuant to 36 C.F.R. § 800.6(c)(6) in APE.** Should unanticipated historic properties be observed within the APE during mining and reclamation operations, with the exception of underground mining activities, UEI will notify OGM of the resource discovery(ies) within twenty-four hours of the resource discovery. UEI will immediately implement protection measures to prevent harm to the discovery while OGM evaluates the discovery and consults with the signatories of this Agreement as quickly as possible. OGM will notify the signatories of this Agreement of the resource discovery(ies) within fourteen (14) days of resource discovery. OGM may consult with the signatories of this Agreement, if needed, to make evaluations. If determined appropriate, OGM will require UEI to record the discovery, conduct additional evaluations as necessary, and provide supporting reports. OGM, in consultation with OSM and BLM, as appropriate, will make determinations of eligibility and effect regarding the discovery.

- a. **No Historic Properties Affected or No Adverse Effects.** If a determination of No Historic Properties Affected or No Adverse Effects is made, OGM will consult with the SHPO regarding the determination following 36 C.F.R. § 800.4-5.
  - b. **Adverse Or Potentially Adverse.** If historic property is determined via this process to be eligible to the National Register of Historic Places and effects to the historic property are determined adverse or potentially adverse, the signatories of this Agreement will reconvene as soon as possible to recommend appropriate measures to avoid, minimize, or mitigate adverse effects.
  - c. **Time Lines.** In all cases, signatories of this Agreement will be afforded thirty (30) calendar days following their receipt of reports/consultation requests to respond.
  - d. **Conducting Consultation.** Consultation with tribes and consulting parties may occur during this process at a level appropriate to the nature of the historic property (if any) and effects to the resources (if any) taking into account comments and concerns received previously from the tribes and consulting parties.
5. **Expedited Treatment.** In the case of unanticipated discoveries of historic properties and where timing is critical due to mining activities, the signatories may mutually agree to the Expedited Treatment (described below) for such discoveries:
  - a. OGM will notify OSM, BLM, and SHPO of the need for expedited treatment.
  - b. OGM will determine the potential eligibility of the historic property in question as well as appropriate treatment for the site, keeping OSM, BLM, and SHPO informed of the process.
  - c. OGM will submit a decision memo to OSM, BLM, and SHPO, including contractor's report where applicable.
  - d. In the event that the discovery involves human burial remains or materials, the provisions of the Utah Burial Protection Act and, where applicable, the Native American Graves Protection and Repatriation Act will apply.
6. **Funding of Work.** UEI will fund and implement any future and historic property resources fieldwork, analysis, and monitoring, which UEI is required to perform under this Agreement.

7. **Amendment to this Agreement.** Any signatory to this Agreement may request that it be amended, whereupon the signatories will consult to reach a written agreement on amendments, which will be executed in the same manner as the original agreement.
8. **Objections.** Should any signatory to this Agreement object within thirty (30) days (unless earlier objection is required herein) to any activity pursuant to this Agreement with respect to which it has jurisdiction, the OGM will consult with the objecting signatory to resolve the objection. If the OGM determines the objection cannot be resolved, the OGM will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (“ACHP”). Within thirty days after the receipt of all pertinent documentation, ACHP will either:
  - a. Provide the OGM with recommendations, which the OGM will take into account in reaching a final decision regarding the dispute; or
  - b. Notify the OGM that it will comment pursuant to 36 C.F.R. Part 800.6(b) and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the OGM in accordance with 36 C.F.R. Part 800.6(c)(2) with reference only to the subject of the dispute; the OGM's responsibility to carry out all actions under this Agreement that are not subject of the dispute will remain unchanged.
9. **Termination.** This Agreement may be terminated with respect to any signatory, upon thirty (30) days' written notice to the other signatories. In the event of termination, the OGM will comply with 36 C.F.R. § 800.3 through 800.7 with regard to individual undertakings covered by this Agreement. **[UEI would like OGM to explain the reason for this agreement and why these rules should not govern without the need for this agreement.]**
10. **Term of Agreement.** This Agreement will remain in effect for the life of the MRP and bond release from the date of execution by all signatories. This Agreement applies to all parties and their successors and assigns, or any successor or assigns of the MRP.
11. **Permit Changes.** Subsequent additions, deletions or other changes to the MRP that may affect historic property will be handled in compliance with the normal Section 106 consultation process as described in 36 C.F.R. 800, and amended into this Agreement and/or its attachments.



Signatories

*Bureau of Land Management*

By: \_\_\_\_\_ Date:

*Utah State Division of Oil, Gas, and Mining*

By: \_\_\_\_\_ Date:

*Office of Surface Mining*

By: \_\_\_\_\_ Date:

*Utah State Historic Preservation Officer*

By: \_\_\_\_\_ Date:

**ATTACHMENT 1: BLM's Memorandum of Agreement for mitigation of 42EM2517.**

**ATTACHMENT 2: Tribal List**

The following tribes were consulted with during the Section 106 process for the Lila Canyon extension application:

Uintah & Ouray Ute Indian Tribe, Ute Mountain Ute Tribe, Southern Ute Tribe, Eastern Shoshone Tribe, Shoshone Bannock Tribes, Northwest Shoshone Tribe, Confederated Tribes of the Goshute Reservation, Paiute Indian Tribe of Utah, Indian Peaks Band of Paiutes, Cedar Band of Paiutes, Hopi Tribe, Navajo Nation, Pueblo of Laguna, Pueblo of Santa Clara, Pueblo of Zia, and Pueblo of Zuni.

**EXHIBIT A: Map of Permit Area**

**EXHIBIT B: Map of Area of Potential Effect [delete reference to wilderness study areas]**

DRAFT AS OF JANUARY 31, FEBRUARY 2, 2007

January 31, February 2, 2007

PROGRAMMATIC AGREEMENT  
AMONG OFFICE OF SURFACE MINING (~~OSM~~),  
DIVISION OF OIL GAS AND MINING (~~OGM~~),  
BUREAU OF LAND MANAGEMENT (~~BLM~~),  
AND UTAH STATE HISTORIC PRESERVATION OFFICER (~~SHPO~~)  
**REGARDING THE**  
LILA CANYON EXTENSION OF THE HORSE CANYON MINE  
(C/007/0013)

**UNDERTAKING:** Proposed Mining and Reclamation Plan ("MRP"), Lila Canyon Extension of the Horse Canyon Mine, C/007/0013.

**STATE:** Utah

**AGENCY:** Utah Division of Oil Gas and Mining ("OGM")

~~WHEREAS, the Office of Surface Mining (OSM) is required by 30 CFR Part 746 to prepare and submit to the Secretary of the Interior (Secretary), which the Secretary has in turn delegated to the Assistant Secretary, Land and Minerals Management, a decision document recommending approval, disapproval, or conditional approval of mining plans for coal mining operations on lands containing leased Federal coal; and~~

**RECITALS:**

**WHEREAS, UEI has applied to OGM for approval of a mining and reclamation plan ("MRP") for the Lila Canyon Extension of the Horse Canyon Mine to mine coal by underground mining methods. A map of the proposed MRP permit area is attached at Exhibit A11; and**

**1. WHEREAS, pursuant to the federal Mineral Leasing Act, the United States Department of the Interior ("DOI"), Bureau of Land Management ("BLM"), has issued the federal coal leases to UEI within the MRP permit area and has approved a resource recovery and protection plan for these coal reserves. In addition, in November, 2001, the**

<sup>1</sup> Please note that the boundaries of the permit area will reduce significantly should OGM amend its definition of the terms "permit area" and "coal mining and reclamation operations" in accordance with the pending rulemaking request filed by the Utah Mining Association on November 27, 2006.

Secretary of DOI issued an approved federal mining plan for the Lila Canyon Extension which remains in effect.<sup>22</sup> Further, in October, 2000, the BLM, as surface land manager, authorized rights of ways ("ROWs") on public lands for surface facilities associated with the underground coal mine, Emery County's road, a telephone line and a power line to be constructed by PacifiCorp. To mitigate possible impacts on site 42EM2517, BLM has drafted a Memorandum of Agreement ("MOA") with UEI, OGM and the Utah State Historic Preservation Office ("SHPO") regarding recovery of the site, Attachment 1.

1. WHEREAS, as~~WHEREAS,~~ pursuant to Utah's Cooperative Agreement with OSM codified at 30 ~~CFR~~C.F.R., Part 944, the Utah Division of Oil, Gas, and Mining (~~OGM~~)OGM has assumed primacy for the regulation of coal mining operations containing Federal lands in Utah and issues mining permits for such lands; and

~~WHEREAS, the United States Department of the Interior, Bureau of Land Management (BLM) has a program, which leases coal within public lands and a surface owner of a portion of the proposed project area (4660 acres; Exhibit A). Utah American Energy, Inc. (UEI), Josiah Eardley, and School and Institutional Trust Lands Administration own other portions of the property (fee) within this 4660 acres; and~~

2. WHEREAS, this Agreement is intended to encompass undertakings including: (1) coal mine permitting and Secretarial mining plan approvals (MRP) approval for the Area of Potential Effect (APE; Exhibit B) of the Lila Canyon Extension of the Horse Canyon Mine; and (2) in the event of rescission of the 2001 federal mining plan approval, any new Secretarial mining plan approval. BLM's MOA is independent from this Agreement and this Agreement does not affect BLM's final decision to grant UEI ROW UTU-77122; and

~~WHEREAS, UEI has applied for a permit by application for the Lila Canyon Extension of the Horse Canyon Mine to mine coal and OGM is required by R645-300.133.600, R645-300.113, and R645-301 rules and the requirements of the state and federal coal programs to comply with the National Historic Preservation Act in issuing the permit; and~~

~~WHEREAS, the OSM, OGM, and BLM, in consultation with SHPO, have defined the APE as areas within the proposed permit area subject to direct surface disturbance (42 acres; APE I) and areas subject to potential subsidence (approximately 2835 acres; APE II) that may change the character or nature of recorded cultural or historical resources; and 33; and~~

<sup>22</sup> UEI reserves the right to object to the need for tribal consultation under § 106 NHPA because the federal mining plan approval issued in November, 2001, is still in effect, has not been rescinded by the Secretary and there is no pending federal undertaking.

<sup>33</sup> UEI reserves the right to challenge the jurisdiction of OGM and OSM over historic properties

WHEREAS, reasonable and good faith identification efforts per 36 CFR C.F.R. § 800.4(b) have been conducted within the APE I (Class III) and APE II (Class II) for cultural and historical resources and the results survey, confirming no sites as eligible for listing on the National Register of Historic Places ("NRHP"), and APE II (Class II) survey recommending two sites as eligible for listing on the NRHP, 42EM2255 and 42EM2256, both of which sites contain low density lithic scatters) and within the ROW (Class III survey recommending 42EM2217 (Fremont Rock Shelter) as eligible for listing on the NRHP although this site is not within the ROW, the MRP permit area, APE I or APE II)44 and the results of those identification efforts have been reviewed by the OSM, OGM, BLM, and SHPO to determine the eligibility of any such resources identified historic properties and the potential effects of the undertaking per 36 CFR 800.5(b) undertakings per 36 C.F.R. § 800.4(c). The APE I and APE II are further identified at Exhibit B; and

WHEREAS, the OSM, OGM, and BLM, in consultation with SHPO, have determined that development of the proposed Lila Canyon Extension of the Horse Canyon Mine and corresponding mining operations will have an Adverse Effect on site 42EM2517; and has determined that the ROW would have impacts on identified historic property site 42EM2217, which would be reduced to insignificance upon implementation of a data recovery plan, and OSM, OGM, in consultation with SHPO, have determined that the MRP will have an adverse effect on identified historic property site 42EM2517; and 55

3. WHEREAS, the OSM, OGM, and BLM, in consultation with SHPO, have determined that development there is a possibility that additional historic properties may be discovered during mining and reclamation of the proposed Lila Canyon Extension of the Horse Canyon Mine and corresponding mining operations, such as subsidence, may have effects on resources not identified during identification efforts for the project, and WHEREAS, the OSM, OGM, and BLM, in consultation with SHPO, have determined that development of the proposed

affected by subsidence. Notably, subsidence due to underground coal mining is not included in the definition of "surface coal mining operations" under Section 701(28) of the Surface Mining Control and Reclamation Agreement, 30 U.S.C. § 1291(28) and 30 C.F.R. § 700.5 of OSM's regulations. See Secretary's interpretative rule, 30 C.F.R. § 761.200, which was upheld in Citizens Coal Council v. Norton, 330 F.3d 478 (D.C. Cir. 2003), cert den, 124 S. Ct. 1415 (U.S. 2004). Notably, OSM stated in its preamble to the interpretive rulemaking at 64 Fed. Reg. 70838 at 70847: "In our most recent rulemaking defining "permit area," we indicated that we do not consider subsidence to be a "surface coal mining and reclamation operation." Our rules do not require including the "area overlying underground workings" (where subsidence may occur) within the definition of "permit area." In the preamble, we explained that the permit area should only include the "areas upon which surface coal mining and reclamation operations" are conducted, not areas where potential subsidence may occur. 48 FR 14820 (Apr. 5, 1983). Thus, no permit is required for these areas where there are no surface activities." Also, see footnote 2 above.

<sup>4</sup> UEI reserves the right to challenge the jurisdiction of the OGM and OSM over site 42EM2217 (Fremont Rock Shelter), which is not within the permit area of the MRP.

<sup>5</sup> UEI reserves the right to challenge OSM's and OGM's jurisdiction to make this "adverse effect" finding regarding site 42EM2217, which is outside the MRP permit area and which is contrary to BLM's decision granting ROW UTU-77122 as upheld by the Interior Board of Land Appeals, Southern Utah Wilderness Alliance, 163 IBLA 142 at 157 (Sept. 22, 2004) (upholding BLM's finding that any impact to the site would be reduced to insignificance upon implementation of a "data recovery plan" approved by BLM.)

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~~Lila Canyon Extension of the Horse Canyon Mine and corresponding mining operations may also have repetitive and predictable effects to cultural or historical resources; and~~

4. **WHEREAS**, the appropriate tribes (Attachment ~~1~~**2**) have been consulted regarding their concerns about potential effects of the undertakings to cultural and/or religious sites (Traditional Cultural Properties and sacred/respected places); and

5. **WHEREAS**, Emery ~~and Carbon Counties~~County, UEI and Southern Utah Wilderness Association (SUWA), as consulting parties, have been consulted regarding ~~their~~ concerns about potential effects to ~~cultural or historic resources~~properties; and

~~WHEREAS, OGM in conjunction with OSM and BLM has notified the Advisory Council on Historic Preservation (Council) and has invited the Council's comments and participation in the review for this undertaking pursuant to 36 CFR § 800;~~

**NOW, THEREFORE**, Pursuant to 36 ~~CFR~~C.F.R. 800.14, the OSM, OGM, BLM, UEI, and SHPO agree to implement this Agreement shall ~~be implemented in accordance with the following stipulations to take into account the~~to address the potential effects that mining operations and reclamation of the Lila Canyon Extension of the Horse Canyon Mine and corresponding mining operations may have on ~~cultural or historic resources~~properties identified within the APE.<sup>66</sup>

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<sup>66</sup> See footnote 5.

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## Stipulations

**STIPULATIONS**

**Lead Agency.** The lead Agency ~~agency~~ (“LA”) **role** for the purposes of this Agreement is determined as follows: ~~OSM. With respect to the ROWs site 42EM2517 and implementation of the MOA, BLM is the LA.~~<sup>77</sup> **Prior to approval of the MRP, BLM** will be the LA until permit approval. Upon approval **of the MRP**, the LA will be OGM. OGM, ~~as the agency official,~~ will continue to consult and coordinate with OSM, BLM, and SHPO on archaeological matters covered under this Agreement. ~~BLM's coal lease stipulations relating to archaeology, BLM's MOA, as well as this Agreement will become conditions to the permit.~~

1. **Treatment of Site 42EM2517.** The BLM shall draft a Memorandum of Agreement ~~has drafted an MOA~~ for mitigation of 42EM2517 (Attachment 2). ~~UEI).~~ **Pursuant to the terms of the MOA, Utah American Energy Inc., (“UEI”)** will assure that a ~~mitigation~~ **data recovery** plan for 42EM2517 is prepared, approved, and implemented in accordance with the BLM MOA. **The tribes and consulting parties have an opportunity to review and comment on the draft MOA.** Consultation with tribes and consulting parties will occur during this process. BLM will take into account comments and concerns received from the tribes and consulting parties. ~~The MOA will become an attachment to this Agreement subsequent to the official signing of~~ **A copy of the fully executed MOA will replace Attachment 1. The parties acknowledge that the MOA is independent from this Agreement and that this Agreement provides no independent basis for enforcing the MOA.**
2. **Monitoring of Surface Evidence of Significant Subsidence.** **In conjunction with hydrologic monitoring activities currently required by the MRP,** UEI will conduct ~~quarterly monitoring and an annual fly-over subsidence monitoring to monitor significant surface fractures or cracking (herein “significant subsidence”) caused by significant subsidence to the APE, consistent with the terms of the subsidence control plan as specified in the MRP,~~ beginning when subsidence is likely to occur (during full extraction) and ~~continue~~ **continuing** for a minimum of five years after mining ceases or until **significant** subsidence stabilizes, ~~which ever~~ **whichever** comes later. The accuracy of this survey will be within plus or minus 6” horizontally and vertically. **Nothing in this Agreement will expand the subsidence control plan currently set forth in the MRP, meeting the requirements of R645-301-525.400 and .500. As specified in the MRP,** UEI will provide an accurate map showing the

<sup>77</sup> See footnote 2.

subsidence isopachs to OGM for significant subsidence. UEI will initiate and coordinate with OGM to ensure identify any evidence of significant surface subsidence within the areas of mapped subsidence. If any significant subsidence is identified, UEI will, in coordination with OGM, insure that a qualified archaeologist will examine the location of the mapped subsidence areas significant subsidence relative to previous archaeological inventories and known archaeological sites within fourteen (14) days of the mapped identification of the significant subsidence. Depending on the location of significant subsidence in relation to previous archaeological historic property inventories and known sites, the accessibility of the area, and the current safety of ground conditions, the following stipulations will apply (to each area of significant subsidence event):

- a. **Previously Inventoried and No Sites.** If significant subsidence occurs within an area that has undergone previous archaeological inventory, and no historic property sites are present within the area of significant subsidence, or no historic property sites eligible to the National Register of Historic Places are present in the area of subsidence, no further work will need to be done. ~~UEI (or their consulting archaeologist) will notify OGM regarding this determination within fourteen (14) days of making the determination, and OGM will provide the information to OSM, BLM, and SHPO.~~

- b. Previously Inventoried and Known Sites. If significant subsidence occurs within an area that has undergone previous archaeological inventory, ~~and known archaeological sites, previously determined eligible to the National Register of Historic Places are present in the subsidence area~~ in which identified historic property sites 42EM2255, 42EM2256 and 42EM2217 are located, UEI will have a qualified archaeologist examine the ~~effects~~affects of significant subsidence upon the ~~site(s) in question~~sites within fourteen (14) days of making this determination. UEI's archaeologist will provide a report, for review by OGM, OSM, and/or BLM, depending upon the site affected, in a timely manner that makes recommendations regarding whether or not the ~~effects~~affects of significant subsidence on the identified sites are adverse. ~~OGM~~OSM will coordinate with OSM and BLM, as appropriate, to make a final determination of the ~~effects~~affects of significant subsidence. ~~OGM~~OSM will then consult with the SHPO regarding the effects determination. If the effect is determined to be adverse, procedures following 36 ~~CFR~~C.F.R. § 800.6 and the ~~stipulations~~stipulation below regarding evaluation and archaeological treatment will be followed.
- c. Not Previously Inventoried. If Sampled. DOGM has approved the Class II and Class III survey methods used for the APE; however, if significant subsidence occurs ~~within an area that has not undergone previous archaeological inventory~~outside the sampling area of the Class II survey, but within the permit area, UEI will have a qualified archaeologist conduct a field examination of the significant subsidence area within fourteen (14) days of making this determination. ~~Depending on the presence or absence of sites in the subsidence area, the following stipulations will apply (to each subsidence event):~~
- i. No Sites. If ~~no~~identified sites 42EM2255 or 42EM2256 are not present within the area of significant subsidence, UEI's archaeologist will make a recommendation of No Historic Properties Affected to OGM in a timely manner. OGM will coordinate with OSM and BLM, as appropriate, to make a final determination of the effects of subsidence. OGM will then consult with the SHPO regarding the effects determination per 36 ~~CFR~~C.F.R. § 800.4(c).
  - ii. Inventoried Sites. If a ~~site or~~ sites 42EM2255 or 42EM2256 are present within the area of significant subsidence, UEI's archaeologist will provide a report and make recommendations of eligibility and effect to OGM (per 36 ~~CFR~~C.F.R. § 800.4(c)(2) and 36 ~~CFR~~C.F.R. § 800.5) regarding the site(s) and significant subsidence effects on the site(s) in a

timely manner. OGM will coordinate with OSM and BLM, as appropriate, to make a final determination of eligibility of the site(s) and the effects of significant subsidence on the site(s). OGM will then consult with the SHPO regarding the effects determination. If the effect to any site eligible to the National Register of Historic Places is determined to be adverse, procedures following 36 ~~CFR~~C.F.R. § 800.6 and the stipulations below regarding evaluation and archaeological treatment will be followed.

d. ~~Time Lines.~~ In all cases, signatories of this Agreement will be afforded thirty (30) calendar days, following receipt of reports/consultation requests, to respond to the OGM.

e.

~~Conducting Consultation.~~ Consultation with tribes and consulting parties will occur during this process at a level appropriate to the nature of the resources (if any) and effects to the resources (if any) taking into account comments and concerns received previously from the tribes and consulting parties.

3. **Discoveries Pursuant to 36 C.F.R. § 800.6(c)(6) in APE I and H.** Should unanticipated cultural or historic resources **properties** be observed within the APE during, but not limited to, UEI's quarterly ground-water monitoring, annual fly-over subsidence monitoring, OGM's field visits, construction of any mine-related structures or features, future archaeological surveys conducted within the permit area, or otherwise brought to OGM attention, UEI will notify OGM within 24 **mining and reclamation operations, with the exception of underground mining activities, UEI will notify OGM of the resource discovery(ies) within twenty-four** hours of the **resource** discovery. UEI will immediately implement protection measures to prevent harm ~~to~~ the discovery while OGM evaluates the discovery and consults with the signatories of this Agreement **as quickly as possible**. OGM will notify the signatories of this Agreement of ~~said resources~~ **the resource discovery(ies)** within fourteen (14) days of resource discovery. OGM may consult with the signatories of this Agreement, if needed, to make evaluations. If determined appropriate, OGM will require UEI to record the discovery, conduct additional evaluations as necessary, and provide supporting reports. OGM, in consultation with OSM and BLM, as appropriate, will make determinations of eligibility and effect regarding the discovery.
  - a. **No Historic Properties Affected or No Adverse Effects.** If a determination of No Historic Properties Affected or No Adverse Effects is made, OGM will consult with the SHPO regarding the determination following 36 ~~CFR~~ **C.F.R. § 800.4-5.**
  - b. **Adverse Or Potentially Adverse.** If effects to a site that **historic property** is determined via this process to be eligible to the National Register of Historic Places **and effects to the historic property** are determined adverse or potentially adverse, the signatories of this Agreement will reconvene **as soon as possible** to recommend ~~and draft~~ appropriate measures to avoid, minimize, or mitigate adverse effects.
  - c. **Time Lines.** In all cases, signatories of this Agreement will be afforded thirty (30) calendar days following **their** receipt of reports/consultation requests to respond.
  - d. **Conducting Consultation.** Consultation with tribes and consulting parties will ~~may~~ occur during this process at a level appropriate to the nature of the resources **historic property** (if any) and effects to the

resources (if any) taking into account comments and concerns received previously from the tribes and consulting parties.

- 4. Expedited Treatment.** In the case of unanticipated discoveries **of historic properties** and where timing is critical **due to mining activities**, the signatories may mutually agree to the Expedited Treatment (described below) for such discoveries. ~~Potential human burial discoveries will be subject to the provisions of the Native American Graves Protection and Repatriation Act.~~

- a. OGM will notify OSM, BLM, and SHPO of the need for expedited treatment.
  - b. OGM will determine the potential eligibility of the historic property in question as well as appropriate treatment for the site, keeping OSM, BLM, and SHPO informed of the process.
  - c. OGM will submit a decision memo to OSM, BLM, and SHPO, including contractor's report where applicable.
  - d. In the event that the discovery involves human burial remains or materials, the provisions of the Utah Burial Protection Act and, where applicable, the Native American Graves Protection and Repatriation Act will apply.
5. Funding of Work. UEI will fund and implement any future and ~~all cultural or historic~~ property resources fieldwork, analysis, and monitoring, which UEI is required to perform under this Agreement.
6. Amendment to this Agreement. Any signatory to this Agreement may request that it be amended, whereupon the signatories will consult to reach a written agreement on amendments, which will be executed in the same manner as the original agreement.
7. Objections. Should any signatory to this Agreement object within thirty (30) days (unless earlier objection is required herein) to any activity pursuant to this Agreement with respect to which it has jurisdiction, the OGM will consult with the objecting signatory to resolve the objection. If the OGM determines the objection cannot be resolved, the OGM will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation ("ACHP"). Within thirty days after the receipt of all pertinent documentation, ACHP will either:
  - a. Provide the OGM with recommendations, which the OGM will take into account in reaching a final decision regarding the dispute; or
  - b. Notify the OGM that it will comment pursuant to 36 CFRC.F.R. Part 800.6(b) and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the OGM in accordance with 36 CFRC.F.R. Part 800.6(c)(2) with reference only to the subject of the dispute; the OGM's responsibility to carry out all actions under this Agreement that are not subject of the dispute will remain



unchanged.

8. **Termination.** Any signatory to this ~~This~~ Agreement may ~~terminate it by~~ **be terminated with respect to any signatory, upon** thirty (30) days' **written** notice to the other signatories. In the event of termination, the OGM will comply with 36 CFR Part ~~C.F.R.~~ **§ 800.3 through 800.7** with regard to individual undertakings covered by this Agreement. **[UEI would like OGM to explain the reason for this agreement and why these rules should not govern without the need for this agreement.]**
9. **Term of Agreement.** This Agreement will remain in effect for the life of the ~~mine and through final reclamation~~ **MRP** and bond release from its ~~the~~ date of execution by ~~the~~ **all** signatories. This stipulation **Agreement** applies to ~~UEI~~ **all parties and their successors and assigns,** or any coal mine permit successor of the proposed (or amended) extension area. Any new Permittee will accept all provisions within this Agreement **successor or assigns of the MRP.**
10. **Permit Changes.** Subsequent additions, deletions or other changes to the ~~permit~~ **MRP** that may affect ~~cultural resources~~ **historic property** will be handled in compliance with the normal Section 106 consultation process as described in 36 CFR ~~C.F.R.~~ **800,** and amended into this ~~Programmatic~~ Agreement and/or its attachments.

12.

Expedited Treatment. For any incidental discovery where the OSM, OGM, and BLM agree that timing is critical because of mining activities, the agencies may invoke the following expedited treatment option:

- a. OGM will notify OSM, BLM, and SHPO of the need for expedited treatment.
- b. OGM will determine the potential eligibility of the site/property in question as well as appropriate treatment for the site, keeping OSM, BLM, and SHPO informed of the process.
- c. OGM will submit a decision memo to OSM, BLM, and SHPO, including contractor's report where applicable.
- d. In the event that the discovery involves human burial remains or materials, the provisions of the Utah Burial Protection Act and, where applicable, the Native American Graves Protection and Repatriation Act will still apply.

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Signatories

*Bureau of Land Management*

By:\_\_\_\_\_ Date: \_

*Utah State Division of Oil, Gas, and Mining*

By:\_\_\_\_\_ Date: \_

*Office of Surface Mining*

By:\_\_\_\_\_ Date: \_\_\_\_\_

*Utah State Historic Preservation Officer*

By:\_\_\_\_\_ Date: \_

**ATTACHMENT 1: BLM's Memorandum of Agreement for mitigation of 42EM2517.**

**ATTACHMENT 2:** Tribal List

The following tribes were consulted with during the Section 106 process for the Lila Canyon extension application:

Uintah & Ouray Ute Indian Tribe, Ute Mountain Ute Tribe, Southern Ute Tribe, Eastern Shoshone Tribe, Shoshone Bannock Tribes, Northwest Shoshone Tribe, Confederated Tribes of the Goshute Reservation, Paiute Indian Tribe of Utah, Indian Peaks Band of Paiutes, Cedar Band of Paiutes, Hopi Tribe, Navajo Nation, Pueblo of Laguna, Pueblo of Santa Clara, Pueblo of Zia, and Pueblo of Zuni.

~~ATTACHMENT 2: BLM's Memorandum of Agreement for mitigation of 42EM2517.~~

~~EXHIBIT 1:~~EXHIBIT A: Map of Permit Area



**EXHIBIT 2B:** Map of Area of Potential Effect [delete reference to wilderness study areas]

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Format changed	0
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